

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

MEYNARD DESIGNS, INC. AND EARTH,
INC.

Plaintiffs and
Counterclaim-Defendants,

v.

EARTH PRODUCTS INC.

Defendant and
Counterclaim-Plaintiff.

EARTH PRODUCTS INC.

Third-Party Plaintiff and
Counterclaim-Defendant,

v.

PLANET, INC.

Third-Party Defendant and
Counterclaim-Plaintiff.

CIVIL ACTION NO. 05 cv 11781 NMG

JOINT MOTION FOR RETURN OF IMPOUNDED DOCUMENTS

Pursuant to D. Mass. Local Rule 7.2 and paragraph 8 of the entered Protective Order (D.I. # 30), the parties hereby request the return of documents impounded or filed under seal in this case.

Certain documents were impounded or filed under seal by the parties for containing information confidential to Meynard Designs, Inc. (“Meynard”), Earth, Inc., Planet, Inc. (collectively, “Plaintiffs”), or Earth Products Inc. (“Earth Products”). The following table lists the documents filed under seal, and associated docket numbers.

<u>Documents Filed Under Seal</u>	<u>Associated Docket Numbers</u>
Earth Products' Motion to Compel Plaintiffs to Supplement their Rule 26(A)(1) Initial Disclosures and their Response to Interrogatory Number 9	37 (Motion to Seal) 38 (Notice of Manual Filing) 42 (Motion to Compel)
Exhibits A and H to the Declaration of Scott E. Davis in Support of Defendant Earth Products' Motion to Compel	37 (Motion to Seal) 38 (Notice of Manual Filing) 43 (Davis Declaration without sealed exhibits)
Earth Products' Motion for Leave to File First Amended Answer, Affirmative Defenses, and Counterclaims	54 (Motion to Seal) 55 (Notice of Manual Filing)
Exhibits D and F-H to the Declaration of Derrick Toddy in Support of Earth Products' Motion to Amend	54 (Motion to Seal) 55 (Notice of Manual Filing) 56 (Toddy Declaration without sealed exhibits)
Earth Products' Motion for Partial Summary Judgment of Invalidity of United States Trademark Registrations 2,249,826 and 2,199,118 and Memorandum in Support	60 (Motion to Seal) 62 (Notice of Manual Filing)
Exhibits D-F to the Declaration of Derrick Toddy in Support of Earth Products' Motion for Summary Judgment of Invalidity of United States Trademark Registrations 2,249,826 and 2,199,118	60 (Motion to Seal) 62 (Notice of Manual Filing) 63 (Toddy Declaration without sealed exhibits)
Plaintiffs' Opposition to Earth Products' Motion for Leave to File First Amended Answer	66 (Motion to Seal) 71 (Notice of Manual Filing)
Exhibits C and J to the Declaration of Hunter D. Keeton in Support of Plaintiffs' Opposition Earth Products' Motion for Leave to File First Amended Answer	66 (Motion to Seal) 71 (Notice of Manual Filing) 72 (Keeton Declaration without sealed exhibits)
Earth Products' Motion for Partial Summary Judgment of Trademark Abandonment and Memorandum in Support	67 (Motion to Seal) 77 (Notice of Manual Filing)
Declaration of Derrick W. Toddy in Support of Earth Products' Motion for Partial Summary Judgment of Trademark Abandonment, and Exhibits 1, 4, 12-13, 16, 18, 20-27, 29-34, 51-80, 82, 84-97, and 99-101 to the Declaration	67 (Motion to Seal) 77 (Notice of Manual Filing) 78 (Toddy Declaration without sealed exhibits)
Concise Statement of Undisputed Material Facts in Support of Earth Products' Motion for Partial Summary Judgment of Trademark Abandonment	67 (Motion to Seal) 77 (Notice of Manual Filing)
Earth Products' Reply in Support of its Motion for Leave to File First Amended Answer, Affirmative Defenses, and Counterclaims	80 (Motion to Seal) 82 (Notice of Manual Filing)

The parties request that all of the documents filed under seal be returned to counsel for Plaintiffs, who will either forward documents filed under seal by Earth Products to its counsel, or destroy such documents at Earth Products' request.

Respectfully submitted,

/s/ Hunter Keeton

Michael Albert, BBO # 558566
malbert@wolfgreenfield.com
Laura Topper, BBO # 652364
ltopper@wolfgreenfield.com
Hunter Keeton, BBO # 660609
hkeeton@wolfgreenfield.com
WOLF, GREENFIELD & SACKS, P.C.
600 Atlantic Avenue
Boston, Massachusetts 02210
Tel. 617 646.8000
Fax 617 646.8646

Counsel For
Meynard Designs, Inc., Earth, Inc., and
Planet, Inc.

/s/ Scott E. Davis (by permission)

Chris Carraway (admitted pro hac vice)
christopher.carraway@klarquist.com
Scott E. Davis (admitted pro hac vice)
scott.davis@klarquist.com
Derrick W. Toddy (admitted pro hac vice)
derrick.toddy@klarquist.com
KLARQUIST SPARKMAN, LLP
121 SW Salmon Street, Suite 1600
Portland, Oregon 97204

Steven M. Bauer
sbauer@proskauer.com
Kimberly A. Mottley
kmottley@proskauer.com
Gina Lombardo
glombardo@proskauer.com
PROSKAUER ROSE LLP
One International Place
Boston, MA 02110

Counsel For
Earth Products Inc.

Local Rule 7.1 Certificate

I certify that counsel for the parties have conferred regarding the issues presented in this motion, and that all of the parties join the motion.

/s/ Hunter Keeton

Hunter Keeton

Certificate of Service

I certify that this document is being filed through the Court's electronic filing system, which serves counsel for other parties who are registered participants as identified on the Notice of Electronic Filing (NEF). Any counsel for other parties who are not registered participants are being served by first class mail on the date of electronic filing.

/s/ Hunter Keeton
Hunter Keeton